

COURIER

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Everything you need to know about Coops and Condos



Q: I am a Board member of a Cooperative that was built in the 1950's as a Co-operative. We were built under the old FHA Section 213 program. We do not have a proprietary lease, but rather an occupancy agreement, which seems very dated Should we change it. and if so, how?

A: Good question and one I get asked many times as an attorney for many "213" Coops. The short answer is that the occupancy agreement is generally an outdated document which lacks many of the provisions which a well-drafted and updated Proprietary Lease would contain. Obviously, a document drafted in the 1950's will contain many provisions that are no longer applicable and conversely, may lack many provisions that should be added. In addition, it would be a good opportunity to put in any other provisions the Board may deem necessary. In order to determine what changes need to be made, you should consult the attorney for the Board of Directors.

In order to amend your occupancy agreement you probably would require a two-thirds vote of all the shareholders. This is usually accomplished at a Special Meeting of shareholders held for this specific purpose. However, before such a meeting takes place, the Board should hold several informational meetings with the shareholders to explain the specifics of the new proprietary lease in detail. This is an onerous process, but serves the Cooperative Corporation well in the long run.

**Geoffrey R. Mazel, Esq.
Hankin & Mazel, PLLC**